

Helen F. Dalton & Associates, PC
Roman Avshalumov (RA5508)
69-12 Austin Street
Forest Hills, NY 11375
Telephone: 718-263-9591
Our File No: 29-L021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CELESTE V. URENA,
Plaintiff,

COMPLAINT

-against-

PLAINTIFF DEMANDS
A TRIAL BY JURY

ROSS METALS CORP., JACK ROSS
AND KAREN ZAKARIAN individually

Defendants.
-----X

Plaintiff, CELESTE V. URENA, by and through her attorneys, HELEN F. DALTON & ASSOCIATES, P.C., complaining of the above-named defendants, respectfully alleges as follows:

PRELIMINARY STATEMENT

This is an action brought by the Plaintiff pursuant to Title VII of the Civil Rights Act of 1964 for discrimination on the basis of religion and 42 U.S.C. § 1983 and for violation of Federal rights guaranteed by New York State Executive Law §§ 296, the New York State Human Rights Law and for Violation of rights guaranteed by of 42 U.S.C. § 2000e. In this Complaint, Plaintiff, CELESTE V. URENA, formerly employed by Defendants ROSS METAL CORP., JACK ROSS AND KAREN ZAKARIAN, individually (Hereinafter: Defendants) as a Sales Assistant, seeks redress for Defendant's discriminatory action for his failure to accommodate or allow her to attend a mandatory religious prayer event and for their decision to retaliate against her for attending the event.

PARTIES

1. Upon information and belief, at all times relevant, Defendant, ROSS METALS CORP, is a Corporation licensed to do business in the State of New York, which has an office located at 27 West 47th Street New York, NY 10036.
2. Upon information and belief, at all times relevant, Defendant, JACK ROSS, is a CEO of Defendant, ROSS METALS CORP.
3. Upon information and belief, at all times relevant, Defendant, JACK ROSS, is an owner of Defendant, ROSS METALS CORP.
4. Upon information and belief, at all times relevant, Defendant, KAREN ZAKARIAN, is a manager of Defendant, ROSS METALS CORP.
5. Upon information and belief, at all times relevant, Defendant, ROSS METALS CORP, was an employer of Plaintiff for the purposes of Title VII.
6. Upon information and belief, at all times relevant, Defendant, JACK ROSS, was an employer of Plaintiff and is an agent of the company for the purposes of Title VII.
7. Upon information and belief, at all times relevant, Defendant, KAREN ZAKARIAN, was an employer of Plaintiff and is an agent of the company for the purposes of Title VII.
8. At all times relevant, Plaintiff, CELESTE V. URENA (hereinafter, "Plaintiff"), is a resident of the Nassau County, State of New York, living at 124 G. Street N. Valley Stream, NY 11580.

9. Plaintiff is a Jehovah's Witness and has been practicing this religion since 1986. As such she is a member of a protected class under Title VII of the civil rights act of 1964.
10. Defendants Ross Metals Corp. consistently employed more than 15 people for the period of Plaintiff's employment.

JURISDICTION AND VENUE

11. This court has jurisdiction over this case pursuant to 42 U.S.C. §1983 and 28 U.S.C. § 1331, because this case arises under Federal Laws and the Federal Constitution.
12. This action properly lies in the United States District Court, Southern District of New York, pursuant to 28 U.S.C. § 1391 because the unlawful employment practices alleged herein occurred in the State of New York, County of New York.
13. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§2201 and 2202.

NATURE OF ACTION

14. This is an action for employment discrimination and wrongful termination in violation of the New York State Human Rights Law (NYSHRL), the New York City Human Rights Law (NYCHRL); Title VII of the Civil Rights Act for discrimination on the basis of religion and 42 U.S.C. § 1983 and for violation of Federal rights guaranteed by New York State Executive Law §§ 296, the New York State Human Rights Law and for Violation of rights guaranteed by of 42 U.S.C. § 2000e

15. On January 27, 2012, Plaintiff filed a charge of discrimination against ROSS METALS CORP with the Equal Employment Opportunity Commission ("EEOC"). By letter dated May 3, 2012, the EEOC advised Plaintiff, of her right to commence this action within 90 days thereafter. (See EEOC Letter attached hereto as "Exhibit A")
16. This action is commenced within 90 days of Right to Sue Letter.

FACTS

17. Plaintiff repeats and realleges each and every allegation contained herein.
18. In or about May, 2003, Plaintiff commenced working for Defendant, ROSS METALS CORP., at 27 West 47th Street New York, NY 10036.
19. While working for Defendant, ROSS METALS CORP., Plaintiff worked as a Sales Assistant providing customer service.
20. On or about December 1, 2011, Plaintiff had to attend a religious event which took place during her work hours. Plaintiff asked Defendant Executive Manager Mrs. KAREN ZAKARIAN if she can leave early from work to attend a religious event, of which she had made her floor Manager, Mrs. FRANCIS TRAN aware of in the past. Defendant Mrs. ZAKARIAN called Defendant JACK ROSS and asked him if Plaintiff can leave early to which he refused and did not allow her to leave early.
21. Defendant JACK ROSS also stated to Defendant Mrs. ZAKARIAN, that no one was able to take days from work or leave early. Shortly after Defendant Mrs.

ZAKARIAN ended the telephone conversation with the Defendant, Mrs. ZAKARIAN told Plaintiff that if she left early, she would lose her job.

22. Plaintiff pleaded with Defendant Mrs. ZAKARIAN not to terminate her position, because she had to attend this religious event that takes place once every 6 (six) months.
23. Defendants knew or should have known that their actions, as described above, violated or risked violating federal prohibitions on religious discrimination, and in doing so, they acted with malice or reckless indifference.
24. Defendant Mrs. ZAKARIAN subsequently terminated Plaintiff's position.
25. Plaintiff did not go back to work the next day as she was told that if she left early she had no job.
26. Defendant JACK ROSS made the decision to terminate the Plaintiff over the phone on December 1, 2011.
27. Defendant ZAKARIAN actually terminated Plaintiff on December 1, 2011.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

28. Plaintiff repeats and re-alleges each and every allegation contained herein.
29. Through Defendants actions as described above, Defendants discriminated against Plaintiff on the basis of religion and refused to accommodate her religious practices in violation of Title VII of the Civil Rights Act of 1964.

30. As a proximate result of Defendant's discrimination, Plaintiff has suffered and continues to suffer substantial loss of past and future earnings and other employment benefits.

31. The conduct of Defendant was done in conscious disregard of Plaintiff's rights. Therefore, Plaintiff is entitled to equitable and injunctive relief and an award of compensatory damages in amount to be determined at trial.

SECOND CLAIM FOR RELIEF

32. Plaintiff repeats and re-alleges each and every allegation contained herein.

33. Plaintiff's charge to the EEOC included an allegation that she had been Discriminated against and based upon religion, and in retaliation for his opposition to religious discrimination.

34. The EEOC's Right to Sue letter encompassed this charge of discrimination.

35. Defendant JACK ROSS actions and failure to act constituted employment discrimination on the basis of religion in violation of 42 U.S.C. § 2000e, et seq.

THIRD CLAIM FOR RELIEF

36. Plaintiff repeats and realleges each and every allegation contained herein.

37. Defendant JACK ROSS METALS CORP., actions and failure to act constituted discrimination based on creed in violation of the New York State Executive Law §§ 296, the New York State Human Rights Law.

38. The actions and failure to act of Defendant JACK ROSS, constituted aiding and abetting discrimination based on creed in violation of the New York State Human Rights Law, New York State Executive Law § 296.

PRAYER FOR RELIEF

39. Plaintiff hereby demands a trial by jury.

WHEREFORE, as a result of the discriminatory conduct and actions of the Defendant herein alleged, Plaintiff demands:

- a. Judgment declaring Defendant violated the aforementioned statutes;
- b. Defendant, its agents, employees, officers, and successors in interest, and those acting in concert with Defendant, be permanently enjoined from discrimination against, harassing or retaliation against Plaintiff on any basis forbidden by New York State Human Rights Law (NYSHRL), the New York City Human Rights Law (NYCHRL); Section 8-502 of the N.Y.C. Admin. Code; and Title VII of the United States Civil Rights Act of 1964, as amended, Title 42 of the United States Code, Section 2000e-17e; that Plaintiff be made whole in the form of back pay and front pay and afforded all benefits which would have been afforded Plaintiff but for said discrimination;
- c. Defendant be ordered to compensate, reimburse and make the Plaintiff whole for compensatory damages in an amount to be determined at trial;
- d. Defendant be ordered to pay Plaintiff punitive damages in an amount to be determined at trial;
- e. Defendant be ordered to pay Plaintiff prejudgment interest;
- f. Defendant be ordered to pay the costs and disbursements of this action, including Plaintiff's attorneys' fees; and

g. For such other and further relief as may be just and proper.

DEMAND FOR A JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all questions of fact raised by the complaint.

Dated: FOREST HILLS, NEW YORK
June 21, 2012

A handwritten signature in black ink, appearing to read 'Roman Avshalumov', is written over a horizontal line.

Roman Avshalumov (RA5508)
Helen F. Dalton & Assoc., P.C.
69-12 Austin Street
Forest Hills, NY 11375
Tel.: (718) 263-9591
Fax: (718) 263-9598

JS 44C/SDNY
REV. 5/2010

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

CELESTE V. URENA,

DEFENDANTS

ROSS METALS CORP., JACK ROSS
AND KAREN ZAKARIAN

as individuals

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

Helen F. Dalton & Associates, P.C. (718) 263-9591
69-12 Austin Street, Forest Hills, NY 11375CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Fair Labor Standards Act

Has this or a similar case been previously filed in SDNY at any time? No? ☒ Yes? ☐ Judge Previously AssignedIf yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

ACTIONS UNDER STATUTES

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
[] 110 INSURANCE	[] 310 AIRPLANE	[] 362 PERSONAL INJURY -	[] 610 AGRICULTURE	[] 422 APPEAL	[] 400 STATE				
[] 120 MARINE	[] 315 AIRPLANE PRODUCT	[] 365 PERSONAL INJURY	[] 620 OTHER FOOD &	28 USC 158	[] 430 BANKS & BANKING				
[] 130 MILLER ACT	LIABILITY	PRODUCT LIABILITY	DRUG	[] 423 WITHDRAWAL	[] 450 COMMERCE				
[] 140 NEGOTIABLE	[] 320 ASSAULT, LIBEL &	[] 368 ASBESTOS PERSONAL	SEIZURE OF	28 USC 157	[] 460 DEPORTATION				
INSTRUMENT	SLANDER	INJURY PRODUCT	PROPERTY		[] 470 RACKETEER INFLU-				
[] 150 RECOVERY OF	[] 330 FEDERAL	LIABILITY	21 USC 881	PROPERTY RIGHTS	ENCED & CORRUPT				
OVERPAYMENT &	EMPLOYERS'		[] 630 LIQUOR LAWS	[] 820 COPYRIGHTS	ORGANIZATION ACT				
ENFORCEMENT OF	LIABILITY	PERSONAL PROPERTY	[] 640 RR & TRUCK	[] 830 PATENT	(RICO)				
JUDGMENT	[] 340 MARINE	[] 370 OTHER FRAUD	[] 650 AIRLINE REGS	[] 840 TRADEMARK	[] 480 CONSUMER CREDIT				
[] 151 MEDICARE ACT	[] 345 MARINE PRODUCT	[] 371 TRUTH IN LENDING	[] 660 OCCUPATIONAL		[] 490 CABLE/SATELLITE TV				
[] 152 RECOVERY OF	LIABILITY	[] 380 OTHER PERSONAL	SAFETY/HEALTH	SOCIAL SECURITY	[] 810 SELECTIVE SERVICE				
DEFAULTED	[] 350 MOTOR VEHICLE	PROPERTY DAMAGE	[] 690 OTHER	[] 861 HIA (1395ff)	[] 850 SECURITIES/				
STUDENT LOANS	[] 355 MOTOR VEHICLE	PRODUCT LIABILITY	LABOR	[] 862 BLACK LUNG (923)	COMMODITIES/				
(EXCL VETERANS)	[] 360 OTHER PERSONAL	INJURY	[] 710 FAIR LABOR	[] 863 DIWC/DIWW (405(g))	EXCHANGE				
[] 153 RECOVERY OF			STANDARDS ACT	[] 864 SSID TITLE XVI	[] 875 CUSTOMER				
OVERPAYMENT OF			LABOR/MGMT	[] 865 RSI (405(g))	CHALLENGE				
VETERAN'S BENEFITS			RELATIONS		12 USC 3410				
[] 160 STOCKHOLDERS SUITS			REPORTING &	FEDERAL TAX SUITS	[] 890 OTHER STATUTORY				
[] 190 OTHER CONTRACT			DISCLOSURE ACT	[] 870 TAXES (U.S. Plaintiff or	ACTIONS				
[] 195 CONTRACT PRODUCT			RAILWAY LABOR ACT	Defendant)	[] 891 AGRICULTURAL ACTS				
LIABILITY			LITIGATION	[] 871 IRS-THIRD PARTY	[] 892 ECONOMIC				
[] 196 FRANCHISE			[] 791 EMPL RET INC	26 USC 7609	STABILIZATION ACT				
	ACTIONS UNDER STATUTES		SECURITY ACT		ENVIRONMENTAL				
	CIVIL RIGHTS	PRISONER PETITIONS	IMMIGRATION		MATTERS				
REAL PROPERTY	[] 441 VOTING	[] 510 MOTIONS TO			[] 894 ENERGY				
[] 210 LAND CONDEMNATION	[] 442 EMPLOYMENT	VACATE SENTENCE			ALLOCATION ACT				
[] 220 FORECLOSURE	[] 443 HOUSING/	20 USC 2255			FREEDOM OF				
[] 230 RENT LEASE &	ACCOMMODATIONS	[] 530 HABEAS CORPUS	[] 482 NATURALIZATION		INFORMATION ACT				
EJECTMENT	[] 444 WELFARE	[] 535 DEATH PENALTY	APPLICATION		APPEAL OF FEE				
[] 240 TORTS TO LAND	[] 445 AMERICANS WITH	[] 540 MANDAMUS & OTHER	[] 463 HABEAS CORPUS-		DETERMINATION				
[] 245 TORT PRODUCT	DISABILITIES -	[] 550 CIVIL RIGHTS	ALIEN DETAINEE		UNDER EQUAL ACCESS				
LIABILITY	EMPLOYMENT	[] 555 PRISON CONDITION	OTHER IMMIGRATION		TO JUSTICE				
[] 290 ALL OTHER	[] 446 AMERICANS WITH		ACTIONS		CONSTITUTIONALITY				
REAL PROPERTY	DISABILITIES - OTHER				OF STATE STATUTES				
	[] 440 OTHER CIVIL RIGHTS								

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?
IF SO, STATE:

DEMAND \$ 150,000.00 OTHER _____

JUDGE _____

DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: ☒ YES ☐ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☒ 1 Original Proceeding
 ☐ 2a. Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ 2b. Removed from State Court AND at least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY)
 ☐ 4 DIVERSITY

IF DIVERSITY, INDICATE
CITIZENSHIP BELOW.
(28 USC 1322, 1441)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [] []	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] []	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [] []
CITIZEN OF ANOTHER STATE	[] []	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] []	FOREIGN NATION	[] []

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

CELESTE V. URENA
1264 G Street
Valley Stream, NY 11580

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

ROSS METALS CORP. KAREN ZAKARIAN
27 West 47th Street 27 West 47th Street
New York, NY 10036 New York, NY 10036

JACK ROSS
27 West 47th Street
New York, NY 10036

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN
(DO NOT check either box if this a PRISONER PETITION)

DATE 6/21/2012 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

☐ NO
☒ YES (DATE ADMITTED Mo. 06 Yr. 2007)
 Attorney Bar Code #RA5508

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of New York

CELESTE V. URENA

Plaintiff

v.

ROSS METALS CORP., JACK ROSS
AND KAREN ZAKARIAN, as individuals

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* ROSS METALS CORP.
27 West 47th Street
New York, NY 10036

KAREN ZAKARIAN
27 West 47th Street
New York, NY 10036

JACK ROSS
27 West 47th Street
New York, NY 10036

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Helen F. Dalton & Associates, P.C.
Roman Avshalumov, Esq.
69-12 Austin Street
Forest Hills, NY 11375

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: